

AMENDMENT NO. _____ Calendar No. _____

Purpose: To enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response.

IN THE SENATE OF THE UNITED STATES—112th Cong., 1st Sess.

S. 1253

To authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

- 1 At the end of division A, add the following:
- 2 **TITLE XVI—NATIONAL GUARD**
- 3 **EMPOWERMENT**
- 4 **SEC. 1601. SHORT TITLE.**
- 5 This title may be cited as the “National Guard Em-
- 6 powerment and State-National Defense Integration Act of
- 7 2011”.

1 SEC. 1602. REESTABLISHMENT OF POSITION OF VICE CHIEF
2 OF THE NATIONAL GUARD BUREAU AND TER-
3 MINATION OF POSITION OF DIRECTOR OF
4 THE JOINT STAFF OF THE NATIONAL GUARD
5 BUREAU.

6 (a) REESTABLISHMENT AND TERMINATION OF POSI-
7 TIONS.—Section 10505 of title 10, United States Code,
8 is amended to read as follows:

9 “§ 10505. Vice Chief of the National Guard Bureau

10 “(a) APPOINTMENT.—(1) There is a Vice Chief of the
11 National Guard Bureau, selected by the Secretary of De-
12 fense from officers of the Army National Guard of the
13 United States or the Air National Guard of the United
14 States who—

15 “(A) are recommended for such appointment by
16 their respective Governors or, in the case of the Dis-
17 trict of Columbia, the commanding general of the
18 District of Columbia National Guard;

19 “(B) have had at least 10 years of federally rec-
20 ognized service in an active status in the National
21 Guard; and

22 “(C) are in a grade above the grade of brigadier
23 general.

24 “(2) The Chief and Vice Chief of the National Guard
25 Bureau may not both be members of the Army or of the
26 Air Force.

1 “(3)(A) Except as provided in subparagraph (B), an
2 officer appointed as Vice Chief of the National Guard Bu-
3 reau serves for a term of four years, but may be removed
4 from office at any time for cause.

5 “(B) The term of the Vice Chief of the National
6 Guard Bureau shall end within a reasonable time (as de-
7 termined by the Secretary of Defense) following the ap-
8 pointment of a Chief of the National Guard Bureau who
9 is a member of the same armed force as the Vice Chief.

10 “(b) DUTIES.—The Vice Chief of the National Guard
11 Bureau performs such duties as may be prescribed by the
12 Chief of the National Guard Bureau.

13 “(c) GRADE.—The Vice Chief of the National Guard
14 Bureau shall be appointed to serve in the grade of lieuten-
15 ant general.

16 “(d) FUNCTIONS AS ACTING CHIEF.—When there is
17 a vacancy in the office of the Chief of the National Guard
18 Bureau or in the absence or disability of the Chief, the
19 Vice Chief of the National Guard Bureau acts as Chief
20 and performs the duties of the Chief until a successor is
21 appointed or the absence of disability ceases.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 10502 of such title is amended by
24 striking subsection (e).

1 (2) Section 10506(a)(1) of such title is amend-
2 ed by striking "and the Director of the Joint Staff
3 of the National Guard Bureau" and inserting "and
4 the Vice Chief of the National Guard Bureau".

5 (c) CLERICAL AMENDMENTS.—

6 (1) HEADING AMENDMENT.—The heading of
7 section 10502 of such title is amended to read as
8 follows:

9 "**§ 10502. Chief of the National Guard Bureau: ap-**
10 **pointment; advisor on National Guard**
11 **matters; grade".**

12 (2) TABLE OF SECTIONS.—The table of sections
13 at the beginning of chapter 1011 of such title is
14 amended—

15 (A) by striking the item relating to section
16 10502 and inserting the following new item:

 "10502. Chief of the National Guard Bureau: appointment; advisor on National
 Guard matters; grade.";

17 and

18 (B) by striking the item relating to section
19 10505 and inserting the following new item:

 "10505. Vice Chief of the National Guard Bureau."

1 SEC. 1603. MEMBERSHIP OF THE CHIEF OF THE NATIONAL
2 GUARD BUREAU ON THE JOINT CHIEFS OF
3 STAFF.

4 (a) MEMBERSHIP ON JOINT CHIEFS OF STAFF.—
5 Section 151(a) of title 10, United States Code, is amended
6 by adding at the end the following new paragraph:

7 “(7) The Chief of the National Guard Bu-
8 reau.”.

9 (b) CONFORMING AMENDMENTS.—Section 10502 of
10 such title, as amended by section 2(b)(1) of this Act, is
11 further amended—

12 (1) by redesignating subsection (d) as sub-
13 section (e); and

14 (2) by inserting after subsection (c) the fol-
15 lowing new subsection (d):

16 “(d) MEMBER OF JOINT CHIEFS OF STAFF.—The
17 Chief of the National Guard Bureau shall perform the du-
18 ties prescribed for him or her as a member of the Joint
19 Chiefs of Staff under section 151 of this title.”.

20 SEC. 1604. CONTINUATION AS A PERMANENT PROGRAM
21 AND ENHANCEMENT OF ACTIVITIES OF TASK
22 FORCE FOR EMERGENCY READINESS PILOT
23 PROGRAM OF THE FEDERAL EMERGENCY
24 MANAGEMENT AGENCY.

25 (a) CONTINUATION.—

1 (1) CONTINUATION AS PERMANENT PRO-
2 GRAM.—The Administrator of the Federal Emer-
3 gency Management Agency shall continue the Task
4 Force for Emergency Readiness (TFER) pilot pro-
5 gram of the Federal Emergency Management Agen-
6 cy as a permanent program of the Agency.

7 (2) LIMITATION ON TERMINATION.—The Ad-
8 ministrator may not terminate the Task Force for
9 Emergency Readiness program, as so continued,
10 until authorized or required to terminate the pro-
11 gram by law.

12 (b) EXPANSION OF PROGRAM SCOPE.—As part of the
13 continuation of the Task Force for Emergency Readiness
14 program pursuant to subsection (a), the Administrator
15 shall carry out the program in at least five States in addi-
16 tion to the five States in which the program is carried
17 out as of the date of the enactment of this Act.

18 (c) ADDITIONAL FEMA ACTIVITIES.—As part of the
19 continuation of the Task Force for Emergency Readiness
20 program pursuant to subsection (a), the Administrator
21 shall—

22 (1) establish guidelines and standards to be
23 used by the States in strengthening the planning
24 and planning capacities of the States with respect to
25 responses to catastrophic disaster emergencies; and

1 (2) develop a methodology for implementing the
2 Task Force for Emergency Readiness that includes
3 goals and standards for assessing the performance
4 of the Task Force.

5 (d) NATIONAL GUARD BUREAU ACTIVITIES.—As
6 part of the continuation of the Task Force for Emergency
7 Readiness program pursuant to subsection (a), the Chief
8 of the National Guard Bureau shall—

9 (1) assist the Administrator in the establish-
10 ment of the guidelines and standards, implementa-
11 tion methodology, and performance goals and stand-
12 ards required by subsection (c);

13 (2) in coordination with the Administrator—

14 (A) identify, using catastrophic disaster re-
15 sponse plans for each State developed under the
16 program, any gaps in State civilian and military
17 response capabilities that Federal military capa-
18 bilities are unprepared to fill; and

19 (B) notify the Secretary of Defense, the
20 Commander of the United States Northern
21 Command, and the Commander of the United
22 States Pacific Command of any gaps in capa-
23 bilities identified under subparagraph (A); and

24 (3) acting through and in coordination with the
25 Adjutants General of the States, assist the States in

1 the development of State plans on responses to cata-
2 strophic disaster emergencies.

3 (e) ANNUAL REPORTS.—The Administrator and the
4 Chief of the National Guard Bureau shall jointly submit
5 to the appropriate committees of Congress each year a re-
6 port on activities under the Task Force for Emergency
7 Readiness program during the preceding year. Each re-
8 port shall include a description of the activities under the
9 program during the preceding year and a current assess-
10 ment of the effectiveness of the program in meeting its
11 purposes.

12 (f) APPROPRIATE COMMITTEES OF CONGRESS DE-
13 FINED.—In this section, the term “appropriate commit-
14 tees of Congress” means—

15 (1) the Committee on Armed Services and the
16 Committee on Homeland Security and Governmental
17 Affairs of the Senate; and

18 (2) the Committee on Armed Services and the
19 Committee on Homeland Security of the House of
20 Representatives.

21 **SEC. 1605. REPORT ON COMPARATIVE ANALYSIS OF COSTS**
22 **OF COMPARABLE UNITS OF THE RESERVE**
23 **COMPONENTS AND THE REGULAR COMPO-**
24 **NENTS OF THE ARMED FORCES.**

25 (a) REPORT REQUIRED.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary of Defense shall submit to the congressional
4 defense committees a report setting forth a com-
5 parative analysis of the costs of units of the regular
6 components of the Armed Forces with the costs of
7 similar units of the reserve components of the
8 Armed Forces. The analysis shall include a separate
9 comparison of the costs of units in the aggregate
10 and of the costs of units solely when on active duty.

11 (2) SIMILAR UNITS.—For purposes of this sub-
12 section, units of the regular components and reserve
13 components shall be treated as similar if such units
14 have the same general structure, personnel, or func-
15 tion, or are substantially composed of personnel hav-
16 ing identical or similar military occupational special-
17 ties (MOS).

18 (b) ASSESSMENT OF INCREASED RESERVE COMPO-
19 NENT PRESENCE IN TOTAL FORCE STRUCTURE.—The
20 Secretary shall include in the report required by sub-
21 section (a) an assessment of the advisability of increasing
22 the number of units and members of the reserve compo-
23 nents of the Armed Forces within the total force structure
24 of the Armed Forces. The assessment shall take into ac-
25 count the comparative analysis conducted for purposes of

1 subsection (a) and such other matters as the Secretary
2 considers appropriate for purposes of the assessment.

3 (c) COMPTROLLER GENERAL REPORT.—Not later
4 than 180 days after the date of the submittal of the report
5 required by subsection (a), the Comptroller General of the
6 United States shall submit to the congressional defense
7 committees a report setting forth a review of such report
8 by the Comptroller General. The report of the Comptroller
9 General shall include an assessment of the comparative
10 analysis contained in the report required by subsection (a)
11 and of the assessment of the Secretary pursuant to sub-
12 section (b).

13 **SEC. 1606. DISPLAY OF PROCUREMENT OF EQUIPMENT FOR**
14 **THE RESERVE COMPONENTS OF THE ARMED**
15 **FORCES UNDER ESTIMATED EXPENDITURES**
16 **FOR PROCUREMENT IN FUTURE-YEARS DE-**
17 **FENSE PROGRAMS.**

18 Each future-years defense program submitted to
19 Congress under section 221 of title 10, United States
20 Code, shall, in setting forth estimated expenditures and
21 item quantities for procurement for the Armed Forces for
22 the fiscal years covered by such program, display sepa-
23 rately under such estimated expenditures and item quan-
24 tities the estimated expenditures for each such fiscal year
25 for equipment for each reserve component of the Armed

1 Forces that will receive items in any fiscal year covered
2 by such program.

3 **SEC. 1607. ENHANCEMENT OF AUTHORITIES RELATING TO**
4 **THE UNITED STATES NORTHERN COMMAND**
5 **AND OTHER COMBATANT COMMANDS.**

6 (a) **COMMANDS RESPONSIBLE FOR SUPPORT TO**
7 **CIVIL AUTHORITIES IN THE UNITED STATES.**—The
8 United States Northern Command and the United States
9 Pacific Command shall be the combatant commands of the
10 Armed Forces that are principally responsible for the sup-
11 port of civil authorities in the United States by the Armed
12 Forces.

13 (b) **DISCHARGE OF RESPONSIBILITY.**—In dis-
14 charging the responsibility set forth in subsection (a), the
15 Commander of the United States Northern Command and
16 the Commander of the United States Pacific Command
17 shall each—

18 (1) in consultation with and acting through the
19 Chief of the National Guard Bureau and the Joint
20 Force Headquarters of the National Guard of the
21 State or States concerned, assist the States in the
22 employment of the National Guard under State con-
23 trol, including National Guard operations conducted
24 in State active duty or under title 32, United States
25 Code; and

1 (2) facilitate the deployment of the Armed
2 Forces on active duty under title 10, United States
3 Code, as necessary to augment and support the Na-
4 tional Guard in its support of civil authorities when
5 National Guard operations are conducted under
6 State control, whether in State active duty or under
7 title 32, United States Code.

8 (c) MEMORANDUM OF UNDERSTANDING.—

9 (1) MEMORANDUM REQUIRED.—Not later than
10 180 days after the date of the enactment of this Act,
11 the Commander of the United States Northern Com-
12 mand, the Commander of the United States Pacific
13 Command, and the Chief of the National Guard Bu-
14 reau shall, with the approval of the Secretary of De-
15 fense, jointly enter into a memorandum of under-
16 standing setting forth the operational relationships,
17 and individual roles and responsibilities, during re-
18 sponses to domestic emergencies among the United
19 States Northern Command, the United States Pa-
20 cific Command, and the National Guard Bureau.

21 (2) MODIFICATION.—The Commander of the
22 United States Northern Command, the Commander
23 of the United States Pacific Command, and the
24 Chief of the National Guard Bureau may from time
25 to time modify the memorandum of understanding

1 under this subsection to address changes in cir-
2 cumstances and for such other purposes as the Com-
3 mander of the United States Northern Command,
4 the Commander of the United States Pacific Com-
5 mand, and the Chief of the National Guard Bureau
6 jointly consider appropriate. Each such modification
7 shall be subject to the approval of the Secretary of
8 Defense.

9 (d) **AUTHORITY TO MODIFY ASSIGNMENT OF COM-**
10 **MAND RESPONSIBILITY.**—Nothing in this section shall be
11 construed as altering or limiting the power of the Presi-
12 dent or the Secretary of Defense to modify the Unified
13 Command Plan in order to assign all or part of the respon-
14 sibility described in subsection (a) to a combatant com-
15 mand other than the United States Northern Command
16 or the United States Pacific Command.

17 (e) **REGULATIONS.**—The Secretary of Defense shall
18 prescribe regulations for purposes of aiding the expedi-
19 tious implementation of the authorities and responsibilities
20 in this section.

21 **SEC. 1608. REQUIREMENTS RELATING TO NATIONAL**
22 **GUARD OFFICERS IN CERTAIN COMMAND PO-**
23 **SITIONS.**

24 (a) **COMMANDER OF ARMY NORTH COMMAND.**—The
25 officer serving in the position of Commander, Army North

1 Command, shall be an officer in the Army National Guard
2 of the United States.

3 (b) COMMANDER OF AIR FORCE NORTH COM-
4 MAND.—The officer serving in the position of Commander,
5 Air Force North Command, shall be an officer in the Air
6 National Guard of the United States.

7 (c) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that, in assigning officers to the command positions
9 specified in subsections (a) and (b), the President should
10 afford a preference in assigning officers in the Army Na-
11 tional Guard of the United States or Air National Guard
12 of the United States, as applicable, who have served as
13 the adjutant general of a State.

14 **SEC. 1609. AVAILABILITY OF FUNDS UNDER STATE PART-**
15 **NERSHIP PROGRAM FOR ADDITIONAL NA-**
16 **TIONAL GUARD CONTACTS ON MATTERS**
17 **WITHIN THE CORE COMPETENCIES OF THE**
18 **NATIONAL GUARD.**

19 The Secretary of Defense shall, in consultation with
20 the Secretary of State, modify the regulations prescribed
21 pursuant to section 1210 of the National Defense Author-
22 ization Act for Fiscal Year 2010 (Public Law 111-84; 123
23 Stat. 2517; 32 U.S.C. 107 note) to provide for the use
24 of funds available pursuant to such regulations for con-
25 tacts between members of the National Guard and civilian

- 1 personnel of foreign governments outside the ministry of
2 defense on matters within the core competencies of the
3 National Guard such as the following:
- 4 (1) Disaster response and mitigation.
 - 5 (2) Defense support to civilian authorities.
 - 6 (3) Consequence management and installation
7 protection.
 - 8 (4) Chemical, biological, radiological, or nuclear
9 event (CBRNE) response.
 - 10 (5) Border and port security and cooperation
11 with civilian law enforcement.
 - 12 (6) Search and rescue.
 - 13 (7) Medical matters.
 - 14 (8) Counterdrug and counternarcotics activities.
 - 15 (9) Public affairs.
 - 16 (10) Employer and family support of reserve
17 forces.
 - 18 (11) Such other matters within the core com-
19 petencies of the National Guard and suitable for
20 contacts under the State Partnership Program as
21 the Secretary of Defense shall specify.